

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN ASSEMBLY MAY 28, 2004

AMENDED IN SENATE APRIL 14, 2004

AMENDED IN SENATE APRIL 1, 2004

SENATE BILL

No. 1307

Introduced by Senator Figueroa

February 17, 2004

An act to amend Sections 4054, 4165, and 4166 of, to amend, repeal, and add Sections 4043, 4053, 4059.5, 4081, 4100, 4105, 4110, 4160, 4163, 4164, ~~4169~~, 4196, 4301, 4305.5, 4331, and 4400 of, to add Sections 4021.5, 4022.5, 4034, 4084, 4085, 4086, 4126.5, ~~4161.5~~, 4163.5, and ~~4186~~ 4168 to, to add and repeal ~~Section~~ Sections 4053.1, 4162, and 4169 of, and to repeal and add Sections 4161 and 4162 of, the Business and Professions Code, relating to drugs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1307, as amended, Figueroa. Wholesalers and manufacturers of dangerous drugs and devices.

(1) Existing law, the Pharmacy Law, provides for the licensing and regulation of pharmacists and wholesalers of dangerous drugs or dangerous devices by the Pharmacy Board. Existing law requires that dangerous drugs or dangerous devices be dispensed only by licensed pharmacists and only to certain persons or entities. Existing law provides certain exemptions from this requirement for manufacturers, veterinary food-animal drug retailers, and wholesalers, including those that employ sufficient qualified supervision by a person who possesses a certificate of exemption. Existing law also requires the board to take

action against a licensee who is guilty of unprofessional conduct, as defined. Existing law makes a violation of the Pharmacy Law a crime.

This bill would revise the list of persons to whom a pharmacy may furnish dangerous drugs. The bill would also revise the exemption provisions related to manufacturers, veterinary food-animal drug retailers, and wholesalers, and would change the certificate of exemption requirement to a requirement of licensure as a designated representative, as defined. The bill would require a wholesaler to keep track of and report to the board excessive purchases of dangerous drugs by a ~~closed-door~~ *contracting* pharmacy, as defined, and would make the clearly excessive furnishing of dangerous drugs to a ~~closed-door~~ *contracting* pharmacy by a wholesaler unprofessional conduct. The bill would make other related changes.

This bill would, on and after January 1, 2007, would require a pedigree, as defined, to accompany each distribution of a dangerous drug, except that the California State Board of Pharmacy is authorized to extend the compliance date to January 1, 2008, under specified circumstances. It would, on and after that date, prohibit a wholesaler or pharmacy from selling, trading, or transferring a dangerous drug without a pedigree, and would prohibit a wholesaler or pharmacy from acquiring a dangerous drug without receiving a pedigree.

(2) Existing law prohibits a person from acting as a wholesaler of dangerous drugs or devices without a license.

This bill would require dangerous drugs or dangerous devices to be acquired from a person authorized by law to possess or furnish them. The bill would exempt a licensed drug manufacturer that only ships drugs of its own manufacture from the provisions governing wholesalers, except for the prohibition against furnishing dangerous drugs or devices to an unauthorized person.

(3) Existing law imposes certain licensing and registration requirements on out-of-state manufacturers and wholesalers doing business in this state, and on their principals.

This bill would delete these requirements. The bill instead would make a person located outside the state that ships, mails, or delivers dangerous drugs or dangerous devices into this state a nonresident wholesaler. The bill would require a nonresident wholesaler to meet specified licensing and reporting requirements, to comply with directions and requests for information, to maintain records in readily retrievable form of dangerous drugs or dangerous devices sold, traded, or transferred to persons in this state, and to designate an



exemptee-in-charge to be responsible for compliance with laws governing wholesalers.

(4) Existing law requires any manufacturer who sells or transfers a dangerous drug or dangerous device into this state or who receives a dangerous drug or dangerous device from a person in this state to, upon request, furnish an authorized officer of the law with all records or other documentation of that sale or transfer. Existing law makes a manufacturer who fails or refuses to comply with that request subject to a citation and a fine, an order of abatement, or both.

This bill instead would apply these provisions to a wholesaler licensed by the board. The bill would delete the provision that makes the failure or refusal to comply with a request subject to a citation and a fine, an order of abatement, or both. The bill would require a wholesaler to submit a surety bond of \$100,000, or an equivalent means of security, for each site to be licensed.

(5) The bill would prohibit a county or municipality from issuing a business license for an establishment that requires a wholesaler license unless the establishment possesses a current wholesaler license issued by the board.

The bill would prohibit a person or entity from purchasing, trading, selling, or transferring a dangerous drug or device under specified circumstances, including if he or she knew, or reasonably should have known, the drug or device was adulterated or misbranded. The bill would make a violation of those provisions subject to a specified fine.

The bill would specify to whom a pharmacist may furnish dangerous drugs.

(6) The bill would make its provisions operative on January 1, 2006, except as specified.

(7) Because a violation of the requirements and prohibitions created by this bill would be a crime, the bill would impose a state-mandated local program.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 4021.5 is added to the Business and Professions Code, to read:

4021.5. (a) ~~“Closed door”~~ “Contracting pharmacy” means a pharmacy that purchases dangerous drugs or dangerous devices ~~for a limited patient population in limited care settings and that is not open for dispensing dangerous drugs and dangerous devices to the general population.~~ *at preferential or contract prices, as defined in subdivision (e) of Section 4164, from a manufacturer or wholesaler for dispensing to patients in licensed health facilities or community care facilities.*

(b) ~~A closed door~~ contract pharmacy shall be separately designated on the pharmacy license issued by the board.

(c) A pharmacy operated by a health care service plan or hospital primarily to serve its own members or patients shall not be considered a ~~closed door~~ contract pharmacy.

(d) This section shall become operative on January 1, 2006.

SEC. 2. Section 4022.5 is added to the Business and Professions Code, to read:

4022.5. (a) “Designated representative” means an individual to whom a license has been granted pursuant to Section 4053.

(b) “Designated representative-in-charge” means a designated representative or a pharmacist who is the supervisor or manager of a wholesaler or veterinary food-animal drug retailer.

(c) This section shall become operative on January 1, 2006.

SEC. 3. Section 4034 is added to the Business and Professions Code, to read:

4034. (a) “Pedigree” means a record, in electronic form, containing information regarding each transaction resulting in a change of ownership of a given dangerous drug, from sale by a manufacturer, through acquisition and sale by a wholesaler, until final sale to a pharmacy or other person furnishing, administering, or dispensing the dangerous drug.

(b) A pedigree shall include all of the following information:

(1) The source of the dangerous drug, including the name, state license number, including California license number if available, and principal address of the source.

(2) The quantity of the dangerous drug, its dosage form and strength, the date of the transaction, the sales invoice number, the container size, the number of containers, the expiration dates, and the lot numbers.

(3) The business name, address, and if appropriate, the state license number, including a California license number if available, of each owner of the dangerous drug, and the dangerous drug shipping information, including the name and address of each person certifying delivery or receipt of the dangerous drug.

(4) A certification under penalty of perjury from a responsible party of the source of the dangerous drug that the information contained in the pedigree is true and accurate.

(c) If a licensed health care service plan, hospital organization, and one or more physician organizations have exclusive contractual relationships to provide health care services, drugs distributed between these persons shall be deemed not to have changed ownership.

(d) This section shall become operative on January 1, 2007.

SEC. 4. Section 4043 of the Business and Professions Code is amended to read:

4043. (a) “Wholesaler” means and includes a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor, or agent, including a ~~nonresident wholesaler~~ *out-of-state distributor*, who sells for resale, or negotiates for distribution, or takes possession of, any drug or device included in Section 4022. Unless otherwise authorized by law, a wholesaler may not store, warehouse, or authorize the storage or warehousing of drugs with any person or at any location not licensed by the board.

(b) This section shall become inoperative and is repealed on January 1, 2006, unless a later enacted statute, that becomes operative before January 1, 2006, amends or repeals that date.

SEC. 5. Section 4043 is added to the Business and Professions Code, to read:

4043. (a) “Wholesaler” means and includes a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor, or agent, including a nonresident wholesaler, who sells for resale, or negotiates for distribution, or takes possession of, any drug or device included in Section 4022. Unless otherwise authorized by law, a wholesaler may not store,

1 warehouse, or authorize the storage or warehousing of drugs with
2 any person or at any location not licensed by the board.

3 (b) This section shall become operative on January 1, 2006.

4 SEC. 6. Section 4053 of the Business and Professions Code
5 is amended to read:

6 4053. (a) Subdivision (a) of Section 4051 shall not apply to
7 a veterinary food-animal drug retailer or wholesaler if the board
8 shall find that sufficient, qualified supervision is employed by the
9 veterinary food-animal drug retailer or wholesaler to adequately
10 safeguard and protect the public health, nor shall Section 4051
11 apply to any laboratory licensed under Section 351 of Title III of
12 the Public Health Service Act (Public Law 78-410).

13 (b) An individual employed by a veterinary food-animal drug
14 retailer or wholesaler may apply for an exemption from Section
15 4051. In order to obtain and maintain that exemption, the
16 individual shall meet the following requirements:

17 (1) He or she shall be a high school graduate or possess a
18 general education development equivalent.

19 (2) He or she shall have a minimum of one year of paid work
20 experience related to the distribution or dispensing of dangerous
21 drugs or dangerous devices or meet all of the prerequisites to take
22 the examination required for licensure as a pharmacist by the
23 board.

24 (3) He or she shall complete a training program approved by the
25 board that, at a minimum, addresses each of the following subjects:

26 (A) Knowledge and understanding of state and federal law
27 relating to the distribution of dangerous drugs and dangerous
28 devices.

29 (B) Knowledge and understanding of state and federal law
30 relating to the distribution of controlled substances.

31 (C) Knowledge and understanding of quality control systems.

32 (D) Knowledge and understanding of the United States
33 Pharmacopoeia standards relating to the safe storage and handling
34 of drugs.

35 (E) Knowledge and understanding of prescription
36 terminology, abbreviations, dosages and format.

37 (4) The board may, by regulation, require training programs to
38 include additional material.

39 (5) The board may, by regulation, require training programs to
40 include additional material.

1 (6) The board shall not issue a certificate of exemption until the
2 applicant provides proof of completion of the required training to
3 the board.

4 (c) The veterinary food-animal drug retailer or wholesaler shall
5 not operate without a pharmacist or an individual in possession of
6 a certificate of exemption on its premises.

7 (d) Only a pharmacist or an individual in possession of a
8 certificate of exemption shall prepare and affix the label to
9 veterinary food-animal drugs.

10 (e) This section shall become inoperative and is repealed on
11 January 1, 2006, unless a later enacted statute, that becomes
12 operative before January 1, 2006, amends or repeals that date.

13 SEC. 7. Section 4053 is added to the Business and Professions
14 Code, to read:

15 4053. (a) Subdivision (a) of Section 4051 shall not apply to
16 a veterinary food-animal drug retailer or wholesaler that employs
17 a designated representative to adequately safeguard and protect the
18 public health, nor shall Section 4051 apply to any laboratory
19 licensed under Section 351 of Title III of the Public Health Service
20 Act (Public Law 78-410).

21 (b) An individual may apply for a designated representative
22 license. In order to obtain and maintain that license, the individual
23 shall meet all of the following requirements:

24 (1) He or she shall be a high school graduate or possess a
25 general education development equivalent.

26 (2) He or she shall have a minimum of one year of paid work
27 experience, in the past three years, related to the distribution or
28 dispensing of dangerous drugs or dangerous devices or meet all of
29 the prerequisites to take the examination required for licensure as
30 a pharmacist by the board.

31 (3) He or she shall complete a training program approved by the
32 board that, at a minimum, addresses each of the following subjects:

33 (A) Knowledge and understanding of California law and
34 federal law relating to the distribution of dangerous drugs and
35 dangerous devices.

36 (B) Knowledge and understanding of California law and
37 federal law relating to the distribution of controlled substances.

38 (C) Knowledge and understanding of quality control systems.

1 (D) Knowledge and understanding of the United States
2 Pharmacopoeia standards relating to the safe storage and handling
3 of drugs.

4 (E) Knowledge and understanding of prescription
5 terminology, abbreviations, dosages and format.

6 (4) The board may, by regulation, require training programs to
7 include additional material.

8 (5) The board may not issue a license as a designated
9 representative until the applicant provides proof of completion of
10 the required training to the board.

11 (c) The veterinary food-animal drug retailer or wholesaler shall
12 not operate without a pharmacist or a designated representative on
13 its premises.

14 (d) Only a pharmacist or a designated representative shall
15 prepare and affix the label to veterinary food-animal drugs.

16 (e) This section shall become operative on January 1, 2006.

17 SEC. 8. Section 4053.1 is added to the Business and
18 Professions Code, to read:

19 4053.1. (a) Certificates of exemption issued or renewed
20 pursuant to Section 4053 prior to January 1, 2005, shall remain
21 valid until their expiration date or until January 1, 2007, whichever
22 date is earlier.

23 (b) Individuals in possession of a current and valid certificate
24 of exemption shall be issued a license as a designated
25 representative if the individual satisfies the requirements of
26 Section 4053 and pays the fee required by subdivision (i) of
27 Section 4400.

28 (c) This section shall become inoperative and be repealed on
29 January 1, 2007, unless a later enacted statute, that becomes
30 operative on or before December 31, 2006, amends or repeals that
31 date.

32 SEC. 9. Section 4054 of the Business and Professions Code
33 is amended to read:

34 4054. Section 4051 shall not apply to a manufacturer or
35 wholesaler that provides dialysis drugs and devices directly to
36 patients.

37 SEC. 10. Section 4059.5 of the Business and Professions
38 Code is amended to read:

39 4059.5. (a) Except as otherwise provided in this chapter,
40 dangerous drugs or dangerous devices may only be ordered by an

entity licensed by the board and must be delivered to the licensed premises and signed for and received by the pharmacist-in-charge or, in his or her absence, another pharmacist designated by the pharmacist-in-charge. Where a licensee is permitted to operate through an exemptee, the exemptee may sign for and receive the delivery.

(b) A dangerous drug or dangerous device transferred, sold, or delivered to any person within this state shall be transferred, sold, or delivered only to an entity licensed by the board, to a manufacturer, or to an ultimate user or the ultimate user's agent.

(c) Notwithstanding subdivisions (a) and (b), deliveries to a hospital pharmacy may be made to a central receiving location within the hospital. However, the dangerous drugs or dangerous devices shall be delivered to the licensed pharmacy premises within one working day following receipt by the hospital, and the pharmacist on duty at that time shall immediately inventory the ~~drugs or devices.~~ *dangerous drug or dangerous devices.*

(d) Notwithstanding any other provision of law, a dangerous drug or dangerous device may be ordered by and provided to a manufacturer, physician, dentist, podiatrist, optometrist, veterinarian, or laboratory, or a physical therapist acting within the scope of his or her license. Any person or entity receiving delivery of any dangerous drugs or *dangerous devices*, or a duly authorized representative of the person or entity, shall sign for the receipt of the dangerous drugs or dangerous devices.

(e) A dangerous drug or dangerous device shall not be transferred, sold, or delivered to any person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer does so in compliance with the laws of this state and of the United States and of the state or country to which the ~~drugs or dangerous drugs or dangerous~~ devices are to be transferred, sold, or delivered. Compliance with the laws of this state and the United States and of the state or country to which the ~~drugs or dangerous drugs or dangerous~~ devices are to be delivered shall include, but not be limited to, determining that the recipient of the ~~drugs or dangerous drugs or dangerous~~ devices is authorized by law to receive the ~~drugs or dangerous drugs or dangerous~~ devices.

(f) This section shall become inoperative and is repealed on January 1, 2006, unless a later enacted statute, that becomes

1 operative on or before December 31, 2005, amends or repeals that
2 date.

3 SEC. 11. Section 4059.5 is added to the Business and
4 Professions Code, to read:

5 4059.5. (a) Except as otherwise provided in this chapter,
6 dangerous drugs or dangerous devices may only be ordered by an
7 entity licensed by the board and shall be delivered to the licensed
8 premises and signed for and received by the pharmacist-in-charge
9 or, in his or her absence, another pharmacist designated by the
10 pharmacist-in-charge. Where a licensee is permitted to operate
11 through a designated representative, the designated representative
12 may sign for and receive the delivery.

13 (b) A dangerous drug or dangerous device transferred, sold, or
14 delivered to any person within this state shall be transferred, sold,
15 or delivered only to an entity licensed by the board, to a
16 manufacturer, or to an ultimate user or the ultimate user's agent.

17 (c) Notwithstanding subdivisions (a) and (b), deliveries to a
18 hospital pharmacy may be made to a central receiving location
19 within the hospital. However, the dangerous drugs or dangerous
20 devices shall be delivered to the licensed pharmacy premises
21 within one working day following receipt by the hospital, and the
22 pharmacist on duty at that time shall immediately inventory the
23 ~~drugs or dangerous drugs or dangerous~~ devices.

24 (d) Notwithstanding any other provision of law, a dangerous
25 drug or dangerous device may be ordered by and provided to a
26 manufacturer, physician, dentist, podiatrist, optometrist,
27 veterinarian, or laboratory, or physical therapist acting within the
28 scope of his or her license. A person or entity receiving delivery
29 of any dangerous drugs or *dangerous* devices, or a duly authorized
30 representative of the person or entity, shall sign for the receipt of
31 the dangerous drugs or dangerous devices.

32 (e) A dangerous drug or dangerous device shall not be
33 transferred, sold, or delivered to any person outside this state,
34 whether foreign or domestic, unless the transferor, seller, or
35 deliverer does so in compliance with the laws of this state and of
36 the United States and of the state or country to which the ~~drugs or~~
37 *dangerous drugs or dangerous* devices are to be transferred, sold,
38 or delivered. Compliance with the laws of this state and the United
39 States and of the state or country to which the ~~drugs or dangerous~~
40 *drugs or dangerous* devices are to be delivered shall include, but

not be limited to, determining that the recipient of the ~~drugs or~~
dangerous drugs or dangerous devices is authorized by law to
receive the ~~drugs or dangerous drugs or dangerous~~ devices.

(f) This section shall become operative on January 1, 2006.

SEC. 12. Section 4081 of the Business and Professions Code
is amended to read:

4081. (a) All records of manufacture and of sale, acquisition,
or disposition of dangerous drugs or dangerous devices shall be at
all times during business hours open to inspection by authorized
officers of the law, and shall be preserved for at least three years
from the date of making. A current inventory shall be kept by every
manufacturer, wholesaler, pharmacy, veterinary food-animal drug
retailer, physician, dentist, podiatrist, veterinarian, laboratory,
clinic, hospital, institution, or establishment holding a currently
valid and unrevoked certificate, license, permit, registration, or
exemption under Division 2 (commencing with Section 1200) of
the Health and Safety Code or under Part 4 (commencing with
Section 16000) of Division 9 of the Welfare and Institutions Code
who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of any pharmacy,
wholesaler, or veterinary food-animal drug retailer shall be jointly
responsible, with the pharmacist-in-charge or exemptee, for
maintaining the records and inventory described in this section.

(c) The pharmacist-in-charge or exemptee shall not be
criminally responsible for acts of the owner, officer, partner, or
employee that violate this section and of which the
pharmacist-in-charge or exemptee had no knowledge, or in which
he or she did not knowingly participate.

(d) This section shall become inoperative and is repealed on
January 1, 2006, unless a later enacted statute, that becomes
operative on or before January 1, 2006, amends or repeals that
date.

SEC. 13. Section 4081 is added to the Business and
Professions Code, to read:

4081. (a) All records of manufacture and of sale, acquisition,
or disposition of dangerous drugs or dangerous devices shall be at
all times during business hours open to inspection by authorized
officers of the law, and shall be preserved for at least three years
from the date of making. A current inventory shall be kept by every
manufacturer, wholesaler, pharmacy, veterinary food-animal drug

1 retailer, physician, dentist, podiatrist, veterinarian, laboratory,
2 clinic, hospital, institution, or establishment holding a currently
3 valid and unrevoked certificate, license, permit, registration, or
4 exemption under Division 2 (commencing with Section 1200) of
5 the Health and Safety Code or under Part 4 (commencing with
6 Section 16000) of Division 9 of the Welfare and Institutions Code
7 who maintains a stock of dangerous drugs or dangerous devices.

8 (b) The owner, officer, and partner of a pharmacy, wholesaler,
9 or veterinary food-animal drug retailer shall be jointly responsible,
10 with the pharmacist-in-charge or designated
11 representative-in-charge, for maintaining the records and
12 inventory described in this section.

13 (c) The pharmacist-in-charge or designated
14 representative-in-charge shall not be criminally responsible for
15 acts of the owner, officer, partner, or employee that violate this
16 section and of which the pharmacist-in-charge or designated
17 representative-in-charge had no knowledge, or in which he or she
18 did not knowingly participate.

19 (d) This section shall become operative on January 1, 2006.

20 SEC. 14. Section 4084 is added to the Business and
21 Professions Code, to read:

22 4084. (a) When a board inspector finds, or has probable
23 cause to believe, that any dangerous drug or dangerous device is
24 adulterated or counterfeit, the board inspector shall affix a tag or
25 other marking to that dangerous drug or dangerous device. The
26 board inspector shall give notice to the person that the dangerous
27 drug or dangerous device bearing the tag or marking has been
28 embargoed.

29 (b) When a board inspector has found that an embargoed
30 dangerous drug or dangerous device is not adulterated or
31 counterfeit, a board inspector shall remove the tag or other
32 marking.

33 (c) A board inspector may secure a sample or specimen of a
34 dangerous drug or dangerous device. If the board inspector obtains
35 a sample prior to leaving the premises, the board inspector shall
36 leave a receipt describing the sample.

37 (d) For the purposes of this article “counterfeit” shall have the
38 meaning defined in Section 109905 of the Health and Safety Code.

39 (e) For the purposes of this article “adulterated” shall have the
40 meaning defined in Article 2 (commencing with Section 111250)

1 of Chapter 6 of Part 5 of Division 104 of the Health and Safety
2 Code.

3 SEC. 15. Section 4085 is added to the Business and
4 Professions Code, to read:

5 4085. (a) It is unlawful for any person to remove, sell, or
6 dispose of an embargoed dangerous drug or dangerous device
7 without permission of the board.

8 (b) When a board inspector has reasonable cause to believe,
9 that the embargo will be violated, a board inspector may remove
10 the embargoed dangerous drug or dangerous device from the
11 premises.

12 SEC. 16. Section 4086 is added to the Business and
13 Professions Code, to read:

14 4086. (a) If a dangerous drug or dangerous device is alleged
15 to be adulterated or counterfeit, the board shall commence
16 proceedings in the superior court in whose jurisdiction the
17 dangerous drug or dangerous device is located, for condemnation
18 of the dangerous drug or dangerous device.

19 (b) If the court finds that an embargoed dangerous drug or
20 dangerous device is adulterated or counterfeit, the dangerous drug
21 or dangerous device shall, after entry of the judgment, be
22 destroyed at the expense of the claimant or owner, under the
23 supervision of the board. All court costs and fees and all reasonable
24 costs incurred by the board in investigating and prosecuting the
25 action, including, but not limited to, the costs of storage and
26 testing, shall be paid by the claimant or owner of the dangerous
27 drug or dangerous device.

28 (c) A superior court of this state may condemn any dangerous
29 drug or dangerous device pursuant to this article. In the absence of
30 an order, the dangerous drug or dangerous device may be
31 destroyed under the supervision of the board who has the written
32 consent of the owner, his or her attorney, or authorized
33 representative. If the board cannot ascertain ownership of the
34 dangerous drug or dangerous device within 30 days of establishing
35 an embargo, the board may destroy the dangerous drug or
36 dangerous device.

37 SEC. 17. Section 4100 of the Business and Professions Code
38 is amended to read:

39 4100. (a) Within 30 days after changing his or her address of
40 record with the board or after changing his or her name according

1 to law, every pharmacist, intern pharmacist, technician, or
2 exemptee shall notify the executive officer of the board of the
3 change of address or change of name.

4 (b) This section shall become inoperative and is repealed on
5 January 1, 2006, unless a later enacted statute, that becomes
6 operative on or before January 1, 2006, amends or repeals that
7 date.

8 SEC. 18. Section 4100 is added to the Business and
9 Professions Code, to read:

10 4100. (a) Within 30 days after changing his or her address of
11 record with the board or after changing his or her name according
12 to law, a pharmacist, intern pharmacist, technician, or designated
13 representative shall notify the executive officer of the board of the
14 change of address or change of name.

15 (b) This section shall become operative on January 1, 2006.

16 SEC. 19. Section 4105 of the Business and Professions Code
17 is amended to read:

18 4105. (a) All records or other documentation of the
19 acquisition and disposition of dangerous drugs and dangerous
20 devices by any entity licensed by the board shall be retained on the
21 licensed premises in a readily retrievable form.

22 (b) The licensee may remove the original records or
23 documentation from the licensed premises on a temporary basis
24 for license-related purposes. However, a duplicate set of those
25 records or other documentation shall be retained on the licensed
26 premises.

27 (c) The records required by this section shall be retained on the
28 licensed premises for a period of three years from the date of
29 making.

30 (d) Any records that are maintained electronically shall be
31 maintained so that the pharmacist-in-charge, the pharmacist on
32 duty if the pharmacist-in-charge is not on duty, or, in the case of
33 a veterinary food-animal drug retailer or wholesaler, the
34 exemptee, shall, at all times during which the licensed premises are
35 open for business, be able to produce a hard copy and electronic
36 copy of all records of acquisition or disposition or other drug or
37 dispensing-related records maintained electronically.

38 (e) (1) Notwithstanding subdivisions (a), (b), and (c), the
39 board, may upon written request, grant to a licensee a waiver of the



1 requirements that the records described in subdivisions (a), (b),
2 and (c) be kept on the licensed premises.

3 (2) A waiver granted pursuant to this subdivision shall not
4 affect the board's authority under this section or any other
5 provision of this chapter.

6 (f) This section shall become inoperative and is repealed on
7 January 1, 2006, unless a later enacted statute, that becomes
8 operative on or before January 1, 2006, amends or repeals that
9 date.

10 SEC. 20. Section 4105 is added to the Business and
11 Professions Code, to read:

12 4105. (a) All records or other documentation of the
13 acquisition and disposition of dangerous drugs and dangerous
14 devices by any entity licensed by the board shall be retained on the
15 licensed premises in a readily retrievable form.

16 (b) The licensee may remove the original records or
17 documentation from the licensed premises on a temporary basis
18 for license-related purposes. However, a duplicate set of those
19 records or other documentation shall be retained on the licensed
20 premises.

21 (c) The records required by this section shall be retained on the
22 licensed premises for a period of three years from the date of
23 making.

24 (d) Any records that are maintained electronically shall be
25 maintained so that the pharmacist-in-charge, the pharmacist on
26 duty if the pharmacist-in-charge is not on duty, or, in the case of
27 a veterinary food-animal drug retailer or wholesaler, the
28 designated representative on duty, shall, at all times during which
29 the licensed premises are open for business, be able to produce a
30 hard copy and electronic copy of all records of acquisition or
31 disposition or other drug or dispensing-related records maintained
32 electronically.

33 (e) (1) Notwithstanding subdivisions (a), (b), and (c), the
34 board, may upon written request, grant to a licensee a waiver of the
35 requirements that the records described in subdivisions (a), (b),
36 and (c) be kept on the licensed premises.

37 (2) A waiver granted pursuant to this subdivision shall not
38 affect the board's authority under this section or any other
39 provision of this chapter.

40 (f) This section shall become operative on January 1, 2006.

1 SEC. 21. Section 4110 of the Business and Professions Code
2 is amended to read:

3 4110. (a) No person shall conduct a pharmacy in the State of
4 California unless he or she has obtained a license from the board.
5 A license shall be required for each pharmacy owned or operated
6 by a specific person. A separate license shall be required for each
7 of the premises of any person operating a pharmacy in more than
8 one location. The license shall be renewed annually. The board
9 may, by regulation, determine the circumstances under which a
10 license may be transferred.

11 (b) The board may, at its discretion, issue a temporary permit,
12 when the ownership of a pharmacy is transferred from one person
13 to another, upon the conditions and for any periods of time as the
14 board determines to be in the public interest. A temporary permit
15 fee shall be established by the board at an amount not to exceed the
16 annual fee for renewal of a permit to conduct a pharmacy. When
17 needed to protect public safety, a temporary permit may be issued
18 for a period not to exceed 180 days, and may be issued subject to
19 terms and conditions the board deems necessary. If the board
20 determines a temporary permit was issued by mistake or denies the
21 application for a permanent license or registration, the temporary
22 license or registration shall terminate upon either personal service
23 of the notice of termination upon the permitholder or service by
24 certified mail, return receipt requested, at the permitholder's
25 address of record with the board, whichever comes first. Neither
26 for purposes of retaining a temporary permit nor for purposes of
27 any disciplinary or license denial proceeding before the board shall
28 the temporary permitholder be deemed to have a vested property
29 right or interest in the permit.

30 (c) This section shall become inoperative and is repealed on
31 January 1, 2006, unless a later enacted statute, that becomes
32 operative on or before January 1, 2006, amends or repeals that
33 date.

34 SEC. 22. Section 4110 is added to the Business and
35 Professions Code, to read:

36 4110. (a) No person shall conduct a pharmacy in the State of
37 California unless he or she has obtained a license from the board.
38 A license shall be required for each pharmacy owned or operated
39 by a specific person. A separate license shall be required for each
40 of the premises of any person operating a pharmacy in more than

one location. The license shall be renewed annually. The board may, by regulation, determine the circumstances under which a license may be transferred.

(b) The board may, at its discretion, issue a temporary license, when the ownership of a pharmacy is transferred from one person to another, upon the conditions and for any periods of time as the board determines to be in the public interest. A temporary license fee shall be established by the board at an amount not to exceed the annual fee for renewal of a license to conduct a pharmacy. When needed to protect public safety, a temporary license may be issued for a period not to exceed 180 days, and may be issued subject to terms and conditions the board deems necessary. If the board determines a temporary license was issued by mistake or denies the application for a permanent license or registration, the temporary license or registration shall terminate upon either personal service of the notice of termination upon the licensee or service by certified mail, return receipt requested, at the licensee's address of record with the board, whichever comes first. Neither for purposes of retaining a temporary license nor for purposes of any disciplinary or license denial proceeding before the board shall the temporary licensee be deemed to have a vested property right or interest in the license.

(c) An applicant for either the issuance or renewal of a pharmacy license that meets the definition of a ~~closed-door~~ *contracting* pharmacy in Section 4021.5 shall notify the board on a form approved by the board.

(d) This section shall become operative on January 1, 2006.

SEC. 23. Section 4126.5 is added to the Business and Professions Code, to read:

4126.5. (a) A pharmacy may furnish dangerous drugs only to the following:

(1) A wholesaler owned or under common control by the wholesaler from whom the dangerous drug was acquired.

(2) The pharmaceutical manufacturer from whom the dangerous drug was acquired.

(3) A licensed wholesaler acting as a reverse distributor.

(4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous drug that could result in the denial of health care. A pharmacy furnishing dangerous drugs pursuant to

1 this paragraph may only furnish a quantity sufficient to alleviate
2 the temporary shortage.

3 (5) A patient or to another pharmacy pursuant to a prescription
4 or as otherwise authorized by law.

5 (6) A health care provider that is not a pharmacy but that is
6 authorized to purchase dangerous drugs.

7 (7) To another pharmacy under common control.

8 (b) Notwithstanding any other provision of law, a violation of
9 this section by either a closed pharmacy or a person engaged in a
10 prohibited transaction with a closed pharmacy may subject the
11 persons who committed the violation to a fine not to exceed the
12 amount specified in Section 125.9 for each occurrence pursuant to
13 a citation issued by the board.

14 (c) For notifications made on and after January 1, 2005, the
15 Franchise Tax Board, upon notification by the board of a final
16 judgment in an action brought under this section, shall subtract the
17 amount of the fine from any tax refunds or lottery winnings due
18 to the person who is a defendant in the action using the offset
19 authority under Section 12419.5 of the Government Code, as
20 delegated by the Controller, and the processes as established by the
21 Franchise Tax Board for this purpose. That amount shall be
22 forwarded to the board for deposit in the Pharmacy Board
23 Contingent Fund.

24 (d) For purposes of this section, “common control” means the
25 power to direct or cause the direction of the management and
26 policies of another person whether by ownership, *by* voting rights,
27 by contract, or by other means.

28 SEC. 24. Section 4160 of the Business and Professions Code
29 is amended to read:

30 4160. (a) A person may not act as a wholesaler of any
31 dangerous drug or dangerous device unless he or she has obtained
32 a license from the board.

33 (b) Upon approval by the board and the payment of the required
34 fee, the board shall issue a license to the applicant.

35 (c) A separate license shall be required for each place of
36 business owned or operated by a wholesaler. Each license shall be
37 renewed annually and shall not be transferable.

38 (d) The board shall not issue or renew a wholesaler license until
39 the wholesaler designates an exemptee-in-charge and notifies the
40 board in writing of the identity and license number of that



~~exemptee~~ *exemptee-in-charge*. The exemptee-in-charge shall be responsible for the wholesaler's compliance with state and federal laws governing wholesalers. A wholesaler shall designate, and notify the board of, a new exemptee-in-charge within 30 days of the date that the prior exemptee-in-charge ceases to be *the* exemptee-in-charge. A pharmacist may be designated as the exemptee-in-charge.

(e) For purposes of this section, "exemptee-in-charge" means a person granted a certificate of exemption pursuant to Section 4053, or a registered pharmacist, who is the supervisor or manager of the facility.

(f) A drug manufacturer licensed by the Food and Drug Administration or pursuant to Section 111615 of the Health and Safety Code that only ships dangerous drugs or dangerous devices of its own manufacture is exempt from this section.

(g) This section shall become inoperative and is repealed on January 1, 2006, unless a later enacted statute, that becomes operative on or before January 1, 2006, amends or repeals that date.

SEC. 25. Section 4160 is added to the Business and Professions Code, to read:

4160. (a) A person may not act as a wholesaler of any dangerous drug or dangerous device unless he or she has obtained a license from the board.

(b) Upon approval by the board and the payment of the required fee, the board shall issue a license to the applicant.

(c) A separate license shall be required for each place of business owned or operated by a wholesaler. Each license shall be renewed annually and shall not be transferable.

(d) The board shall not issue or renew a wholesaler license until the wholesaler identifies a designated representative-in-charge and notifies the board in writing of the identity and license number of that designated representative. The designated representative-in-charge shall be responsible for the wholesaler's compliance with state and federal laws governing wholesalers. A wholesaler shall identify and notify the board of a new designated representative-in-charge within 30 days of the date that the prior designated representative-in-charge ceases to be *the* designated representative-in-charge. A pharmacist may be identified as the designated representative-in-charge.

(e) A drug manufacturer licensed by the Food and Drug Administration or licensed pursuant to Section 111615 of the Health and Safety Code that only distributes dangerous drugs and dangerous devices of its own manufacture is exempt from this section and Section 4161.

(f) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be fixed by the board at an amount not to exceed the annual fee for renewal of a license to conduct business as a wholesaler.

(g) This section shall become operative on January 1, 2006.

SEC. 26. Section 4161 of the Business and Professions Code is repealed.

SEC. 27. Section 4161 is added to the Business and Professions Code, to read:

4161. (a) A person located outside this state that ships, mails, or delivers dangerous drugs or dangerous devices into this state at wholesale shall be considered an out-of-state distributor.

(b) An out-of-state distributor shall be licensed by the board prior to shipping, mailing, or delivering dangerous drugs or dangerous devices to a site located in this state.

(c) A separate license shall be required for each place of business owned or operated by an out-of-state distributor from or through which dangerous drugs or dangerous devices are shipped, mailed, or delivered to a site located in this state. A license shall be renewed annually and shall not be transferable.

(d) The following information shall be reported, in writing, to the board at the time of initial application for licensure by a nonresident wholesaler, on renewal of an out-of-state distributor license, or within 30 days of a change in the following information:

(1) Its agent for service of process in this state.

(2) Its principal corporate officers, as specified by the board, if any.

(3) Its general partners, as specified by the board, if any.

(4) Its owners, if the applicant is not a corporation or partnership.

(e) A report containing the information in subdivision (d) shall be made within 30 days of any change of ownership, office, corporate officer, or partner.

1 (f) An out-of-state distributor shall comply with all directions
2 and requests for information from the regulatory or licensing
3 agency of the state in which it is licensed, as well as with all
4 requests for information made by the board.

5 (g) An out-of-state distributor wholesaler shall maintain
6 records of dangerous drugs and dangerous devices sold, traded, or
7 transferred to persons in this state, so that the records are in a
8 readily retrievable form.

9 (h) An out-of-state distributor shall at all times maintain a
10 valid, unexpired license, permit, or registration to conduct the
11 business of the wholesaler in compliance with the laws of the state
12 in which it is a resident. An application for an out-of-state
13 distributor license in this state shall include a license verification
14 from the licensing authority in the applicant's state of residence.

15 (i) The board may not issue or renew an out-of-state distributor
16 license until the out-of-state distributor identifies an
17 exemptee-in-charge and notifies the board in writing of the
18 identity and license number of the exemptee-in-charge.

19 (j) The exemptee-in-charge shall be responsible for the
20 nonresident wholesaler's compliance with state and federal laws
21 governing wholesalers. A nonresident wholesaler shall identify
22 and notify the board of a new exemptee-in-charge within 30 days
23 of the date that the prior exemptee-in-charge ceases to be the
24 exemptee-in-charge.

25 (k) The board may issue a temporary license, upon conditions
26 and for periods of time as the board determines to be in the public
27 interest. A temporary license fee shall be fixed by the board at an
28 amount not to exceed the annual fee for renewal of a license to
29 conduct business as an out-of-state distributor.

30 (l) The license fee shall be the fee specified in subdivision (f)
31 of Section 4400.

32 (m) This section shall become inoperative and be repealed on
33 January 1, 2006, unless a later enacted statute, that becomes
34 operative on or before December 31, 2006, amends or repeals that
35 date.

36 SEC. 28. Section 4161 is added to the Business and
37 Professions Code, to read:

38 4161. (a) A person located outside this state that ships, mails,
39 or delivers dangerous drugs or dangerous devices into this state at
40 wholesale shall be considered a nonresident wholesaler.

1 (b) A nonresident wholesaler shall be licensed by the board
2 prior to shipping, mailing, or delivering dangerous drugs or
3 dangerous devices to a site located in this state.

4 (c) A separate license shall be required for each place of
5 business owned or operated by a nonresident wholesaler from or
6 through which dangerous drugs or dangerous devices are shipped,
7 mailed, or delivered to a site located in this state. A license shall
8 be renewed annually and shall not be transferable.

9 (d) The following information shall be reported, in writing, to
10 the board at the time of initial application for licensure by a
11 nonresident wholesaler, on renewal of a nonresident wholesaler
12 license, or within 30 days of a change in the following information:

13 (1) Its agent for service of process in this state.

14 (2) Its principal corporate officers, as specified by the board, if
15 any.

16 (3) Its general partners, as specified by the board, if any.

17 (4) Its owners, if the applicant is not a corporation or
18 partnership.

19 (e) A report containing the information in subdivision (d) shall
20 be made within 30 days of any change of ownership, office,
21 corporate officer, or partner.

22 (f) A nonresident wholesaler shall comply with all directions
23 and requests for information from the regulatory or licensing
24 agency of the state in which it is licensed, as well as with all
25 requests for information made by the board.

26 (g) A nonresident wholesaler shall maintain records of
27 dangerous drugs and dangerous devices sold, traded, or transferred
28 to persons in this state, so that the records are in a readily
29 retrievable form.

30 (h) A nonresident wholesaler shall at all times maintain a valid,
31 unexpired license, permit, or registration to conduct the business
32 of the wholesaler in compliance with the laws of the state in which
33 it is a resident. An application for a nonresident wholesaler license
34 in this state shall include a license verification from the licensing
35 authority in the applicant's state of residence.

36 (i) The board may not issue or renew a nonresident wholesaler
37 license until the nonresident wholesaler identifies a designated
38 representative-in-charge and notifies the board in writing of the
39 identity and license number of the designated
40 representative-in-charge.

(j) The designated representative-in-charge shall be responsible for the nonresident wholesaler's compliance with state and federal laws governing wholesalers. A nonresident wholesaler shall identify and notify the board of a new designated representative-in-charge within 30 days of the date that the prior designated representative-in-charge ceases to be the designated representative-in-charge.

(k) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be fixed by the board at an amount not to exceed the annual fee for renewal of a license to conduct business as a nonresident wholesaler.

(l) The registration fee shall be the fee specified in subdivision (f) of Section 4400.

(m) This section shall become operative on January 1, 2006.

SEC. 29. Section 4162 of the Business and Professions Code is repealed.

SEC. 30. Section 4162 is added to the Business and Professions Code, to read:

4162. (a) (1) An applicant for the issuance or renewal of a wholesaler license shall submit a surety bond of one hundred thousand dollars (\$100,000) or other equivalent means of security acceptable to the board payable to the Pharmacy Board Contingent Fund. The purpose of the surety bond is to secure payment of any administrative fine imposed by the board and any cost recovery ordered pursuant to Section 125.3.

(2) *For purposes of paragraph (1), the board may accept a surety bond less than one hundred thousand dollars (\$100,000) if the annual gross receipts of the previous tax year for the wholesaler is ten million dollars (\$10,000,000) or less, in which case the surety bond shall be twenty-five thousand dollars (\$25,000).*

(3) *For applicants to satisfy paragraph (2), the board may require a bond up to one hundred thousand dollars (\$100,000) for any wholesaler who has been disciplined by any state or federal agency or has been issued an administrative fine pursuant to this chapter.*

(b) The board may make a claim against the bond if the licensee fails to pay a fine within 30 days after the order imposing the fine, or costs become final.

(c) A single surety bond or other equivalent means of security acceptable to the board shall satisfy the requirement of subdivision (a) for each licensed site under common control as defined in Section 4126.5.

(d) This section shall become operative on January 1, 2006, *and shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends those dates.*

SEC. 31. Section 4163 of the Business and Professions Code is amended to read:

4163. (a) No manufacturer or wholesaler shall furnish any dangerous drugs or dangerous devices to any unauthorized persons.

(b) No person shall acquire dangerous drugs or dangerous devices from a person not authorized by law to possess or furnish those dangerous drugs or dangerous devices.

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 32. Section 4163 is added to the Business and Professions Code, to read:

4163. (a) A manufacturer or wholesaler may not furnish a dangerous drug or dangerous device to an unauthorized person.

(b) Dangerous drugs or dangerous devices shall be acquired from a person authorized by law to possess or furnish dangerous drugs or dangerous devices.

(c) A wholesaler or pharmacy may not sell, trade, or transfer a dangerous drug at wholesale without providing a pedigree.

(d) A wholesaler or pharmacy may not acquire a dangerous drug without receiving a pedigree.

(e) This section shall become operative on January 1, 2007.

SEC. 33. Section 4163.5 is added to the Business and Professions Code, to read:

4163.5. The board may extend the date for compliance with the requirement for a pedigree set forth in Section 4163 until January 1, 2008, if it determines that manufacturers, wholesalers, or pharmacies require additional time to implement electronic technologies to track the distribution of dangerous drugs within the state. A determination by the board to extend the deadline for providing pedigrees shall not be subject to the requirements of

1 Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3 of Title 2 of the Government Code.

3 SEC. 34. Section 4164 of the Business and Professions Code
4 is amended to read:

5 4164. (a) All wholesalers licensed by the board and all
6 manufacturers who distribute controlled substances, dangerous
7 drugs, or dangerous devices within or into this state shall report to
8 the board all sales of dangerous drugs and controlled substances
9 that are subject to abuse, as determined by the board.

10 (b) This section shall become inoperative and is repealed on
11 January 1, 2006, unless a later enacted statute, that becomes
12 operative on or before January 1, 2006, amends or repeals that
13 date.

14 SEC. 35. Section 4164 is added to the Business and
15 Professions Code, to read:

16 4164. (a) A wholesaler licensed by the board that distributes
17 controlled substances, dangerous drugs, or dangerous devices
18 within or into this state shall report to the board all sales of
19 dangerous drugs and controlled substances that are subject to
20 abuse, as determined by the board.

21 (b) Each wholesaler shall report excessive purchases of
22 dangerous drugs at preferential or contract prices by ~~closed-door~~
23 *contracting* pharmacies to the board, as designated by the board
24 pursuant to Section 4021.5.

25 (c) Each wholesaler shall develop and maintain a system for
26 tracking individual sales of dangerous drugs at preferential or
27 contract prices to ~~closed-door~~ *contracting* pharmacies. The system
28 shall be capable of identifying purchases by an established
29 customer which vary significantly from prior ordering patterns for
30 the same customer.

31 (d) Upon written, oral, or electronic request by the board, a
32 wholesaler shall furnish that data, or any specific portion thereof,
33 to the board in written, hardcopy, or electronic form.

34 (e) As used in this section, “preferential or contract prices”
35 means and refers to purchases by contract of dangerous drugs at
36 prices below the market wholesale price for those drugs.

37 (f) This section shall become operative on January 1, 2006.

38 SEC. 36. Section 4165 of the Business and Professions Code
39 is amended to read:

1 4165. A wholesaler licensed by the board who sells or
2 transfers any dangerous drug or dangerous device into this state or
3 who receives, by sale or otherwise, any dangerous drug or
4 dangerous device from any person in this state shall, on request,
5 furnish an authorized officer of the law with all records or other
6 documentation of that sale or transfer.

7 SEC. 37. Section 4166 of the Business and Professions Code
8 is amended to read:

9 4166. (a) Any wholesaler that uses the services of any carrier,
10 including, but not limited to, the United States Postal Service or
11 any common carrier, shall be liable for the security and integrity
12 of any dangerous drugs or dangerous devices through that carrier
13 until the drugs or devices are delivered to the transferee at its
14 board-licensed premises.

15 (b) Nothing in this section is intended to affect the liability of
16 a wholesaler or other distributor for dangerous drugs or dangerous
17 devices after their delivery to the transferee.

18 SEC. 38. Section 4168 is added to the Business and
19 Professions Code, to read:

20 4168. A county or municipality may not issue a business
21 license for any establishment that requires a wholesaler license
22 unless the establishment possesses a current wholesaler license
23 issued by the board. For purposes of this section, an
24 “establishment” is the licensee’s physical location in California.

25 SEC. 39. Section 4169 is added to the Business and
26 Professions Code, to read:

27 4169. (a) A person or entity may not do any of the following:

28 (1) Purchase, trade, sell, or transfer dangerous drugs or
29 dangerous devices at wholesale with a person or entity that is not
30 licensed with the board as a wholesaler or pharmacy, in violation
31 of Section 4163.

32 (2) Purchase, trade, sell, or transfer dangerous drugs that the
33 person knew or reasonably should have known were adulterated,
34 as set forth in Article 2 (commencing with Section 111250) of
35 Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

36 (3) Purchase, trade, sell, or transfer dangerous drugs that the
37 person knew or reasonably should have known were misbranded,
38 as defined in Section 111335 of the Health and Safety Code.

39 (4) Purchase, trade, sell, or transfer dangerous drugs or
40 dangerous devices after the beyond use date on the label.

1 (5) Fail to maintain records of the acquisition or disposition of
2 dangerous drugs or dangerous devices for at least three years.

3 (b) Notwithstanding any other provision of law, a violation of
4 this section may subject the person or entity that has committed the
5 violation to a fine not to exceed the amount specified in Section
6 125.9 for each occurrence, pursuant to a citation issued by the
7 board.

8 (c) The Franchise Tax Board, upon notification by the board of
9 a final judgment in an action brought under this section, shall
10 subtract the amount of the fine from any tax funds or lottery
11 winnings due to the person who is a defendant in the action using
12 the offset authority under Section 12419.5 of the Government
13 Code, as delegated by the Controller, and the processes established
14 by the Franchise Tax Board for this purpose. That amount shall be
15 forwarded to the board for deposit in the Pharmacy Board
16 Contingent Fund.

17 (d) This section shall not apply to a pharmaceutical
18 manufacturer licensed by the Food and Drug Administration or by
19 the State Department of Health Services.

20 (e) This section shall remain in effect only until January 1,
21 2007, and as of that date is repealed, unless a later enacted statute,
22 that is enacted before January 1, 2007, deletes or extends that date.

23 SEC. 40. Section 4169 is added to the Business and
24 Professions Code, to read:

25 4169. (a) A person or entity may not do any of the following:

26 (1) Purchase, trade, sell, or transfer dangerous drugs or
27 dangerous devices at wholesale with a person or entity that is not
28 licensed with the board as a wholesaler or pharmacy.

29 (2) Purchase, trade, sell, or transfer dangerous drugs that the
30 person knew or reasonably should have known were adulterated,
31 as set forth in Article 2 (commencing with Section 111250) of
32 Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

33 (3) Purchase, trade, sell, or transfer dangerous drugs that the
34 person knew or reasonably should have known were misbranded,
35 as defined in Section 111335 of the Health and Safety Code.

36 (4) Purchase, trade, sell, or transfer dangerous drugs or
37 dangerous devices after the beyond use date on the label.

38 (5) Fail to maintain records of the acquisition or disposition of
39 dangerous drugs or dangerous devices for at least three years.

(b) Notwithstanding any other provision of law, a violation of this section or of subdivision (c) or (d) of Section 4163 may subject the person or entity that has committed the violation to a fine not to exceed the amount specified in Section 125.9 for each occurrence, pursuant to a citation issued by the board.

(c) The Franchise Tax Board, upon notification by the board of a final judgment in an action brought under this section, shall subtract the amount of the fine from any tax funds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Pharmacy Board Contingent Fund.

(d) This section shall not apply to a pharmaceutical manufacturer licensed by the Food and Drug Administration or by the State Department of Health Services.

(e) This section shall become operative on January 1, 2007.

SEC. 41. Section 4196 of the Business and Professions Code is amended to read:

4196. (a) No person shall conduct a veterinary food-animal drug retailer in the State of California unless he or she has obtained a license from the board. A license shall be required for each veterinary food-animal drug retailer owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a veterinary food-animal drug retailer in more than one location. The license shall be renewed annually and shall not be transferable.

(b) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be fixed by the board at an amount not to exceed the annual fee for renewal of a license to conduct a veterinary food-animal drug retailer.

(c) No person other than a pharmacist, an intern pharmacist, an exempt person, an authorized officer of the law, or a person authorized to prescribe, shall be permitted in that area, place, or premises described in the permit issued by the board pursuant to Section 4041, wherein veterinary food-animal drugs are stored, possessed, or repacked. A pharmacist or exemptee shall be responsible for any individual who enters the veterinary

1 food-animal drug retailer for the purpose of performing clerical,
2 inventory control, housekeeping, delivery, maintenance, or
3 similar functions relating to the veterinary food-animal drug
4 retailer.

5 (d) The board shall not issue or renew a veterinary food-animal
6 retailer license until the veterinary food-animal drug retailer
7 designates an exemptee-in-charge and notifies the board in writing
8 of the identity and license number of that exemptee. The
9 exemptee-in-charge shall be responsible for the veterinary
10 food-animal drug retailer's compliance with state and federal laws
11 governing veterinary food-animal drug retailers. Each veterinary
12 food-animal drug retailer shall designate, and notify the board of,
13 a new exemptee-in-charge within 30 days of the date that the prior
14 exemptee-in-charge ceases to be *the* exemptee-in-charge. A
15 pharmacist may be designated as the exemptee-in-charge.

16 (e) For purposes of this section, "exemptee-in-charge" means
17 a person granted a certificate of exemption pursuant to Section
18 4053, or a registered pharmacist, who is the supervisor or manager
19 of the facility.

20 (f) This section shall become inoperative and is repealed on
21 January 1, 2006, unless a later enacted statute, that becomes
22 operative on or before January 1, 2006, amends or repeals that
23 date.

24 SEC. 42. Section 4196 is added to the Business and
25 Professions Code, to read:

26 4196. (a) No person shall conduct a veterinary food-animal
27 drug retailer in the State of California unless he or she has obtained
28 a license from the board. A license shall be required for each
29 veterinary food-animal drug retailer owned or operated by a
30 specific person. A separate license shall be required for each of the
31 premises of any person operating a veterinary food-animal drug
32 retailer in more than one location. The license shall be renewed
33 annually and shall not be transferable.

34 (b) The board may issue a temporary license, upon conditions
35 and for periods of time as the board determines to be in the public
36 interest. A temporary license fee shall be fixed by the board at an
37 amount not to exceed the annual fee for renewal of a license to
38 conduct a veterinary food-animal drug retailer.

39 (c) No person other than a pharmacist, an intern pharmacist, a
40 designated representative, an authorized officer of the law, or a

1 person authorized to prescribe, shall be permitted in that area,
2 place, or premises described in the permit issued by the board
3 pursuant to Section 4041, wherein veterinary food-animal drugs
4 are stored, possessed, or repacked. A pharmacist or designated
5 representative shall be responsible for any individual who enters
6 the veterinary food-animal drug retailer for the purpose of
7 performing clerical, inventory control, housekeeping, delivery,
8 maintenance, or similar functions relating to the veterinary
9 food-animal drug retailer.

10 (d) The board shall not issue or renew a veterinary food-animal
11 retailer license until the veterinary food-animal drug retailer
12 identifies a designated representative-in-charge and notifies the
13 board in writing of the identity and license number of that
14 designated representative. The designated
15 representative-in-charge shall be responsible for the veterinary
16 food-animal drug retailer's compliance with state and federal laws
17 governing veterinary food-animal drug retailers. Each veterinary
18 food-animal drug retailer shall identify, and notify the board of, a
19 new designated representative-in-charge within 30 days of the date
20 that the prior designated representative-in-charge ceases to be *the*
21 designated representative-in-charge. A pharmacist may be
22 identified as the designated representative-in-charge.

23 (e) For purposes of this section, designated
24 representative-in-charge means a person granted a designated
25 representative license pursuant to Section 4053, or a registered
26 pharmacist, who is the supervisor or manager of the facility.

27 (f) This section shall become operative on January 1, 2006.

28 SEC. 43. Section 4301 of the Business and Professions Code
29 is amended to read:

30 4301. The board shall take action against any holder of a
31 license who is guilty of unprofessional conduct or whose license
32 has been procured by fraud or misrepresentation or issued by
33 mistake. Unprofessional conduct shall include, but is not limited
34 to, any of the following:

35 (a) Gross immorality.

36 (b) Incompetence.

37 (c) Gross negligence.

38 (d) The clearly excessive furnishing of controlled substances in
39 violation of subdivision (a) of Section 11153 of the Health and
40 Safety Code.

1 (e) The clearly excessive furnishing of controlled substances in
2 violation of subdivision (a) of Section 11153.5 of the Health and
3 Safety Code. Factors to be considered in determining whether the
4 furnishing of controlled substances is clearly excessive shall
5 include, but not be limited to, the amount of controlled substances
6 furnished, the previous ordering pattern of the customer (including
7 size and frequency of orders), the type and size of the customer,
8 and where and to whom the customer distributes its product.

9 (f) The commission of any act involving moral turpitude,
10 dishonesty, fraud, deceit, or corruption, whether the act is
11 committed in the course of relations as a licensee or otherwise, and
12 whether the act is a felony or misdemeanor or not.

13 (g) Knowingly making or signing any certificate or other
14 document that falsely represents the existence or nonexistence of
15 a state of facts.

16 (h) The administering to oneself, of any controlled substance,
17 or the use of any dangerous drug or of alcoholic beverages to the
18 extent or in a manner as to be dangerous or injurious to oneself, to
19 a person holding a license under this chapter, or to any other person
20 or to the public, or to the extent that the use impairs the ability of
21 the person to conduct with safety to the public the practice
22 authorized by the license.

23 (i) Except as otherwise authorized by law, knowingly selling,
24 furnishing, giving away, or administering or offering to sell,
25 furnish, give away, or administer any controlled substance to an
26 addict.

27 (j) The violation of any of the statutes of this state or of the
28 United States regulating controlled substances and dangerous
29 drugs.

30 (k) The conviction of more than one misdemeanor or any
31 felony involving the use, consumption, or self-administration of
32 any dangerous drug or alcoholic beverage, or any combination of
33 those substances.

34 (l) The conviction of a crime substantially related to the
35 qualifications, functions, and duties of a licensee under this
36 chapter. The record of conviction of a violation of Chapter 13
37 (commencing with Section 801) of Title 21 of the United States
38 Code regulating controlled substances or of a violation of the
39 statutes of this state regulating controlled substances or dangerous
40 drugs shall be conclusive evidence of unprofessional conduct. In



1 all other cases, the record of conviction shall be conclusive
2 evidence only of the fact that the conviction occurred. The board
3 may inquire into the circumstances surrounding the commission
4 of the crime, in order to fix the degree of discipline or, in the case
5 of a conviction not involving controlled substances or dangerous
6 drugs, to determine if the conviction is of an offense substantially
7 related to the qualifications, functions, and duties of a licensee
8 under this chapter. A plea or verdict of guilty or a conviction
9 following a plea of nolo contendere is deemed to be a conviction
10 within the meaning of this provision. The board may take action
11 when the time for appeal has elapsed, or the judgment of
12 conviction has been affirmed on appeal or when an order granting
13 probation is made suspending the imposition of sentence,
14 irrespective of a subsequent order under Section 1203.4 of the
15 Penal Code allowing the person to withdraw his or her plea of
16 guilty and to enter a plea of not guilty, or setting aside the verdict
17 of guilty, or dismissing the accusation, information, or indictment.

18 (m) The cash compromise of a charge of violation of Chapter
19 13 (commencing with Section 801) of Title 21 of the United States
20 Code regulating controlled substances or of Chapter 7
21 (commencing with Section 14000) of Part 3 of Division 9 of the
22 Welfare and Institutions Code relating to the Medi-Cal program.
23 The record of the compromise is conclusive evidence of
24 unprofessional conduct.

25 (n) The revocation, suspension, or other discipline by another
26 state of a license to practice pharmacy, operate a pharmacy, or do
27 any other act for which a license is required by this chapter.

28 (o) Violating or attempting to violate, directly or indirectly, or
29 assisting in or abetting the violation of or conspiring to violate any
30 provision or term of this chapter or of the applicable federal and
31 state laws and regulations governing pharmacy, including
32 regulations established by the board.

33 (p) Actions or conduct that would have warranted denial of a
34 license.

35 (q) Engaging in any conduct that subverts or attempts to
36 subvert an investigation of the board.

37 (r) The selling, trading, transferring, or furnishing of drugs
38 obtained pursuant to Section 256b of Title 42 of the United States
39 Code to any person a licensee knows or reasonably should have
40 known, not to be a patient of a covered entity, as defined in



1 paragraph (4) of subsection (a) of Section 256b of Title 42 of the
2 United States Code.

3 (s) This section shall become inoperative and is repealed on
4 January 1, 2006, unless a later enacted statute, that becomes
5 operative on or before January 1, 2006, amends or repeals that
6 date.

7 SEC. 44. Section 4301 is added to the Business and
8 Professions Code, to read:

9 4301. The board shall take action against any holder of a
10 license who is guilty of unprofessional conduct or whose license
11 has been procured by fraud or misrepresentation or issued by
12 mistake. Unprofessional conduct shall include, but is not limited
13 to, any of the following:

14 (a) Gross immorality.

15 (b) Incompetence.

16 (c) Gross negligence.

17 (d) The clearly excessive furnishing of controlled substances in
18 violation of subdivision (a) of Section 11153 of the Health and
19 Safety Code.

20 (e) The clearly excessive furnishing of controlled substances in
21 violation of subdivision (a) of Section 11153.5 of the Health and
22 Safety Code. Factors to be considered in determining whether the
23 furnishing of controlled substances is clearly excessive shall
24 include, but not be limited to, the amount of controlled substances
25 furnished, the previous ordering pattern of the customer (including
26 size and frequency of orders), the type and size of the customer,
27 and where and to whom the customer distributes its product.

28 (f) The commission of any act involving moral turpitude,
29 dishonesty, fraud, deceit, or corruption, whether the act is
30 committed in the course of relations as a licensee or otherwise, and
31 whether the act is a felony or misdemeanor or not.

32 (g) Knowingly making or signing any certificate or other
33 document that falsely represents the existence or nonexistence of
34 a state of facts.

35 (h) The administering to oneself, of any controlled substance,
36 or the use of any dangerous drug or of alcoholic beverages to the
37 extent or in a manner as to be dangerous or injurious to oneself, to
38 a person holding a license under this chapter, or to any other person
39 or to the public, or to the extent that the use impairs the ability of

1 the person to conduct with safety to the public the practice
2 authorized by the license.

3 (i) Except as otherwise authorized by law, knowingly selling,
4 furnishing, giving away, or administering or offering to sell,
5 furnish, give away, or administer any controlled substance to an
6 addict.

7 (j) The violation of any of the statutes of this state or of the
8 United States regulating controlled substances and dangerous
9 drugs.

10 (k) The conviction of more than one misdemeanor or any
11 felony involving the use, consumption, or self-administration of
12 any dangerous drug or alcoholic beverage, or any combination of
13 those substances.

14 (l) The conviction of a crime substantially related to the
15 qualifications, functions, and duties of a licensee under this
16 chapter. The record of conviction of a violation of Chapter 13
17 (commencing with Section 801) of Title 21 of the United States
18 Code regulating controlled substances or of a violation of the
19 statutes of this state regulating controlled substances or dangerous
20 drugs shall be conclusive evidence of unprofessional conduct. In
21 all other cases, the record of conviction shall be conclusive
22 evidence only of the fact that the conviction occurred. The board
23 may inquire into the circumstances surrounding the commission
24 of the crime, in order to fix the degree of discipline or, in the case
25 of a conviction not involving controlled substances or dangerous
26 drugs, to determine if the conviction is of an offense substantially
27 related to the qualifications, functions, and duties of a licensee
28 under this chapter. A plea or verdict of guilty or a conviction
29 following a plea of nolo contendere is deemed to be a conviction
30 within the meaning of this provision. The board may take action
31 when the time for appeal has elapsed, or the judgment of
32 conviction has been affirmed on appeal or when an order granting
33 probation is made suspending the imposition of sentence,
34 irrespective of a subsequent order under Section 1203.4 of the
35 Penal Code allowing the person to withdraw his or her plea of
36 guilty and to enter a plea of not guilty, or setting aside the verdict
37 of guilty, or dismissing the accusation, information, or indictment.

38 (m) The cash compromise of a charge of violation of Chapter
39 13 (commencing with Section 801) of Title 21 of the United States
40 Code regulating controlled substances or of Chapter 7



(commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code relating to the Medi-Cal program. The record of the compromise is conclusive evidence of unprofessional conduct.

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

(p) Actions or conduct that would have warranted denial of a license.

(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

(r) The selling, trading, transferring, or furnishing of drugs obtained pursuant to Section 256b of Title 42 of the United States Code to any person a licensee knows or reasonably should have known, not to be a patient of a covered entity, as defined in paragraph (4) of subsection (a) of Section 256b of Title 42 of the United States Code.

(s) The clearly excessive furnishing of dangerous drugs to a ~~closed door~~ contracting pharmacy by a wholesaler. Factors to be considered in determining whether the furnishing of dangerous drugs is clearly excessive shall include, but shall not be limited to, the amount of dangerous drugs furnished to a closed door pharmacy, the previous ordering pattern of the closed door pharmacy, and the general patient population to whom the closed door pharmacy distributes the dangerous drugs. This provision shall not be interpreted to require a wholesaler to obtain personal medical information or be authorized to permit a wholesaler to have access to personal medical information except as otherwise authorized by Section 56 and following of the Civil Code.

(t) This section shall become operative on January 1, 2006.

SEC. 45. Section 4305.5 of the Business and Professions Code is amended to read:

4305.5. (a) Any person who has obtained a license to conduct a wholesaler or veterinary food-animal drug retailer, shall notify the board within 30 days of the termination of employment of any

1 pharmacist or exemptee who takes charge of, or acts as manager
2 of the licensee. Failure to notify the board within the 30-day period
3 shall constitute grounds for disciplinary action.

4 (b) Any person who has obtained a license to conduct a
5 wholesaler or veterinary food-animal drug retailer, who willfully
6 fails to notify the board of the termination of employment of any
7 pharmacist or exemptee who takes charge of, or acts as manager
8 of the licensee, and who continues to operate the licensee in the
9 absence of a pharmacist or an exemptee approved for that location,
10 shall be subject to summary suspension or revocation of his or her
11 license to conduct a wholesaler or veterinary food-animal drug
12 retailer.

13 (c) Any pharmacist or exemptee who takes charge of, or acts as
14 manager of a wholesaler or veterinary food-animal drug retailer,
15 who terminates his or her employment at the licensee, shall notify
16 the board within 30 days of the termination of employment.
17 Failure to notify the board within the 30-day period shall constitute
18 grounds for disciplinary action.

19 (d) This section shall become inoperative and is repealed on
20 January 1, 2006, unless a later enacted statute, that becomes
21 operative on or before January 1, 2006, amends or repeals that
22 date.

23 SEC. 46. Section 4305.5 is added to the Business and
24 Professions Code, to read:

25 4305.5. (a) A person who has obtained a license to conduct
26 a wholesaler or veterinary food-animal drug retailer, shall notify
27 the board within 30 days of the termination of employment of the
28 designated representative-in-charge. Failure to notify the board
29 within the 30-day period shall constitute grounds for disciplinary
30 action.

31 (b) A person who has obtained a license to conduct a wholesaler
32 or veterinary food-animal drug retailer, who willfully fails to
33 notify the board of the termination of employment of the
34 designated representative-in-charge, and who continues to operate
35 the licensee in the absence of the designated
36 representative-in-charge for that location, shall be subject to
37 summary suspension or revocation of his or her license to conduct
38 a wholesaler or veterinary food-animal drug retailer.

39 (c) A designated representative-in-charge of a wholesaler or
40 veterinary food-animal drug retailer, who terminates his or her

1 employment at the licensee, shall notify the board within 30 days
2 of the termination of employment. Failure to notify the board
3 within the 30-day period shall constitute grounds for disciplinary
4 action.

5 (d) This section shall become operative on January 1, 2006.

6 SEC. 47. Section 4331 of the Business and Professions Code
7 is amended to read:

8 4331. (a) Any person who is neither a pharmacist nor an
9 exemptee and who takes charge of a wholesaler or veterinary
10 food-animal drug retailer or who dispenses a prescription or
11 furnishes dangerous devices except as otherwise provided in this
12 chapter is guilty of a misdemeanor.

13 (b) Any person who has obtained a license to conduct a
14 veterinary food-animal drug retailer and who fails to place in
15 charge of that veterinary food-animal drug retailer a pharmacist or
16 exemptee, or any person who, by himself or herself, or by any
17 other person, permits the dispensing of prescriptions, except by a
18 pharmacist or exemptee, or as otherwise provided in this chapter,
19 is guilty of a misdemeanor.

20 (c) Any person who has obtained a license to conduct a
21 wholesaler and who fails to place in charge of that wholesaler a
22 pharmacist or exemptee, or any person who, by himself or herself,
23 or by any other person, permits the furnishing of dangerous drugs
24 or dangerous devices, except by a pharmacist or exemptee, or as
25 otherwise provided in this chapter, is guilty of a misdemeanor.

26 (d) This section shall become inoperative and is repealed on
27 January 1, 2006, unless a later enacted statute, that becomes
28 operative on or before January 1, 2006, amends or repeals that
29 date.

30 SEC. 48. Section 4331 is added to the Business and
31 Professions Code, to read:

32 4331. (a) A person who is neither a pharmacist nor a
33 designated representative and who takes charge of a wholesaler or
34 veterinary food-animal drug retailer or who dispenses a
35 prescription or furnishes dangerous devices except as otherwise
36 provided in this chapter is guilty of a misdemeanor.

37 (b) A person who has obtained a license to conduct a veterinary
38 food-animal drug retailer and who fails to place in charge of that
39 veterinary food-animal drug retailer a pharmacist or designated
40 representative, or any person who, by himself or herself, or by any

1 other person, permits the dispensing of prescriptions, except by a
2 pharmacist or designated representative, or as otherwise provided
3 in this chapter, is guilty of a misdemeanor.

4 (c) A person who has obtained a license to conduct a wholesaler
5 and who fails to place in charge of that wholesaler a pharmacist or
6 designated representative, or any person who, by himself or
7 herself, or by any other person, permits the furnishing of
8 dangerous drugs or dangerous devices, except by a pharmacist or
9 designated representative, or as otherwise provided in this chapter,
10 is guilty of a misdemeanor.

11 (d) This section shall become operative on January 1, 2006.

12 SEC. 49. Section 4400 of the Business and Professions Code
13 is amended to read:

14 4400. The amount of fees and penalties prescribed by this
15 chapter, except as otherwise provided, is that fixed by the board
16 according to the following schedule:

17 (a) The fee for a nongovernmental pharmacy license shall be
18 three hundred forty dollars (\$340) and may be increased to four
19 hundred dollars (\$400).

20 (b) The fee for a nongovernmental pharmacy or medical device
21 retailer annual renewal shall be one hundred seventy-five dollars
22 (\$175) and may be increased to two hundred fifty dollars (\$250).

23 (c) The fee for the pharmacist application and examination
24 shall be one hundred fifty-five dollars (\$155) and may be increased
25 to one hundred eighty-five dollars (\$185).

26 (d) The fee for regrading an examination shall be seventy-five
27 dollars (\$75) and may be increased to eighty-five dollars (\$85). If
28 an error in grading is found and the applicant passes the
29 examination, the regrading fee shall be refunded.

30 (e) The fee for a pharmacist license and biennial renewal shall
31 be one hundred fifteen dollars (\$115) and may be increased to one
32 hundred fifty dollars (\$150).

33 (f) The fee for a wholesaler license and annual renewal shall be
34 five hundred fifty dollars (\$550) and may be increased to six
35 hundred dollars (\$600).

36 (g) The fee for a hypodermic license and renewal shall be
37 ninety dollars (\$90) and may be increased to one hundred
38 twenty-five dollars (\$125).

39 (h) The fee for application and investigation for an exemptee
40 license under Section 4053 shall be seventy-five dollars (\$75) and

1 may be increased to one hundred dollars (\$100), except for a
2 veterinary food-animal drug retailer exemptee, for whom the fee
3 shall be one hundred dollars (\$100).

4 (i) The fee for an exemptee license and annual renewal under
5 Section 4053 shall be one hundred ten dollars (\$110) and may be
6 increased to one hundred fifty dollars (\$150), except that the fee
7 for the issuance of a veterinary food-animal drug retailer exemptee
8 license shall be one hundred fifty dollars (\$150), for renewal one
9 hundred ten dollars (\$110), which may be increased to one
10 hundred fifty dollars (\$150), and for filing a late renewal fifty-five
11 dollars (\$55).

12 (j) The fee for an out-of-state drug distributor's license and
13 annual renewal issued pursuant to Section 4120 shall be five
14 hundred fifty dollars (\$550) and may be increased to six hundred
15 dollars (\$600).

16 (k) The fee for registration and annual renewal of providers of
17 continuing education shall be one hundred dollars (\$100) and may
18 be increased to one hundred thirty dollars (\$130).

19 (l) The fee for evaluation of continuing education courses for
20 accreditation shall be set by the board at an amount not to exceed
21 forty dollars (\$40) per course hour.

22 (m) The fee for evaluation of applications submitted by
23 graduates of foreign colleges of pharmacy or colleges of pharmacy
24 not recognized by the board shall be one hundred sixty-five dollars
25 (\$165) and may be increased to one hundred seventy-five dollars
26 (\$175).

27 (n) The fee for an intern license or extension shall be sixty-five
28 dollars (\$65) and may be increased to seventy-five dollars (\$75).
29 The fee for transfer of intern hours or verification of licensure to
30 another state shall be fixed by the board not to exceed twenty
31 dollars (\$20).

32 (o) The board may, by regulation, provide for the waiver or
33 refund of the additional fee for the issuance of a certificate where
34 the certificate is issued less than 45 days before the next
35 succeeding regular renewal date.

36 (p) The fee for the reissuance of any license, or renewal thereof,
37 that has been lost or destroyed or reissued due to a name change
38 is thirty dollars (\$30).

39 (q) The fee for the reissuance of any license, or renewal thereof,
40 that must be reissued because of a change in the information, is

1 sixty dollars (\$60) and may be increased to one hundred dollars
2 (\$100).

3 (r) It is the intent of the Legislature that, in setting fees pursuant
4 to this section, the board shall seek to maintain a reserve in the
5 Pharmacy Board Contingent Fund equal to approximately one
6 year's operating expenditures.

7 (s) The fee for any applicant for a clinic permit is three hundred
8 forty dollars (\$340) and may be increased to four hundred dollars
9 (\$400) for each permit. The annual fee for renewal of the permit
10 is one hundred seventy-five dollars (\$175) and may be increased
11 to two hundred fifty dollars (\$250) for each permit.

12 (t) The board shall charge a fee for the processing and issuance
13 of a registration to a pharmacy technician and a separate fee for the
14 biennial renewal of the registration. The registration fee shall be
15 twenty-five dollars (\$25) and may be increased to fifty dollars
16 (\$50). The biennial renewal fee shall be twenty-five dollars (\$25)
17 and may be increased to fifty dollars (\$50).

18 (u) The fee for a veterinary food-animal drug retailer license
19 shall be four hundred dollars (\$400). The annual renewal fee for
20 a veterinary food-animal drug retailer shall be two hundred fifty
21 dollars (\$250).

22 (v) The fee for issuance of a retired license pursuant to Section
23 4200.5 shall be thirty dollars (\$30).

24 (w) This section shall become inoperative and is repealed on
25 January 1, 2006, unless a later enacted statute, that becomes
26 operative on or before January 1, 2006, amends or repeals that
27 date.

28 SEC. 50. Section 4400 is added to the Business and
29 Professions Code, to read:

30 4400. The amount of fees and penalties prescribed by this
31 chapter, except as otherwise provided is that fixed by the board
32 according to the following schedule:

33 (a) The fee for a nongovernmental pharmacy license shall be
34 three hundred forty dollars (\$340) and may be increased to four
35 hundred dollars (\$400).

36 (b) The fee for a nongovernmental pharmacy annual renewal
37 shall be one hundred seventy-five dollars (\$175) and may be
38 increased to two hundred fifty dollars (\$250).

1 (c) The fee for the pharmacist application and examination
2 shall be one hundred fifty-five dollars (\$155) and may be increased
3 to one hundred eighty-five dollars (\$185).

4 (d) The fee for regrading an examination shall be seventy-five
5 dollars (\$75) and may be increased to eighty-five dollars (\$85). If
6 an error in grading is found and the applicant passes the
7 examination, the regrading fee shall be refunded.

8 (e) The fee for a pharmacist license and biennial renewal shall
9 be one hundred fifteen dollars (\$115) and may be increased to one
10 hundred fifty dollars (\$150).

11 (f) The fee for a wholesaler license and annual renewal shall be
12 five hundred fifty dollars (\$550) and may be increased to six
13 hundred dollars (\$600).

14 (g) The fee for a hypodermic license and renewal shall be
15 ninety dollars (\$90) and may be increased to one hundred
16 twenty-five dollars (\$125).

17 (h) The fee for application and investigation for a designated
18 representative license issued pursuant to Section 4053 shall be
19 seventy-five dollars (\$75) and may be increased to one hundred
20 dollars (\$100), except for a veterinary food-animal drug retailer
21 designated representative, for whom the fee shall be one hundred
22 dollars (\$100).

23 (i) The fee for a designated representative license and annual
24 renewal under Section 4053 shall be one hundred ten dollars
25 (\$110) and may be increased to one hundred fifty dollars (\$150),
26 except that the fee for the issuance of a veterinary food-animal
27 drug retailer designated representative license shall be one
28 hundred fifty dollars (\$150), for renewal one hundred ten dollars
29 (\$110), which may be increased to one hundred fifty dollars
30 (\$150), and for filing a late renewal fifty-five dollars (\$55).

31 (j) The fee for a nonresident wholesaler's license and annual
32 renewal issued pursuant to Section 4120 shall be five hundred fifty
33 dollars (\$550) and may be increased to six hundred dollars (\$600).

34 (k) The fee for registration and annual renewal of providers of
35 continuing education shall be one hundred dollars (\$100) and may
36 be increased to one hundred thirty dollars (\$130).

37 (l) The fee for evaluation of continuing education courses for
38 accreditation shall be set by the board at an amount not to exceed
39 forty dollars (\$40) per course hour.

1 (m) The fee for evaluation of applications submitted by
2 graduates of foreign colleges of pharmacy or colleges of pharmacy
3 not recognized by the board shall be one hundred sixty-five dollars
4 (\$165) and may be increased to one hundred seventy-five dollars
5 (\$175).

6 (n) The fee for an intern license or extension shall be sixty-five
7 dollars (\$65) and may be increased to seventy-five dollars (\$75).
8 The fee for transfer of intern hours or verification of licensure to
9 another state shall be fixed by the board not to exceed twenty
10 dollars (\$20).

11 (o) The board may, by regulation, provide for the waiver or
12 refund of the additional fee for the issuance of a certificate where
13 the certificate is issued less than 45 days before the next
14 succeeding regular renewal date.

15 (p) The fee for the reissuance of any license, or renewal thereof,
16 that has been lost or destroyed or reissued due to a name change
17 is thirty dollars (\$30).

18 (q) The fee for the reissuance of any license, or renewal thereof,
19 that must be reissued because of a change in the information, is
20 sixty dollars (\$60) and may be increased to one hundred dollars
21 (\$100).

22 (r) It is the intent of the Legislature that, in setting fees pursuant
23 to this section, the board shall seek to maintain a reserve in the
24 Pharmacy Board Contingent Fund equal to approximately one
25 year's operating expenditures.

26 (s) The fee for any applicant for a clinic permit is three hundred
27 forty dollars (\$340) and may be increased to four hundred dollars
28 (\$400) for each permit. The annual fee for renewal of the permit
29 is one hundred seventy-five dollars (\$175) and may be increased
30 to two hundred fifty dollars (\$250) for each permit.

31 (t) The board shall charge a fee for the processing and issuance
32 of a registration to a pharmacy technician and a separate fee for the
33 biennial renewal of the registration. The registration fee shall be
34 twenty-five dollars (\$25) and may be increased to fifty dollars
35 (\$50). The biennial renewal fee shall be twenty-five dollars (\$25)
36 and may be increased to fifty dollars (\$50).

37 (u) The fee for a veterinary food-animal drug retailer license
38 shall be four hundred dollars (\$400). The annual renewal fee for
39 a veterinary food-animal drug retailer shall be two hundred fifty
40 dollars (\$250).

(v) The fee for issuance of a retired license pursuant to Section 4200.5 shall be thirty dollars (\$30).

(w) This section shall become operative on January 1, 2006.

SEC. 51. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CORRECTIONS

Title — Line 3.

Text — Pages 1, 7, 12, and 25.